

**From:** [WOOLVERTON Priscilla](#)  
**To:** [Henning, Alan](#)  
**Subject:** Lane County Onsite Contract  
**Date:** Wednesday, September 03, 2014 1:50:41 PM  
**Attachments:** [LaneCnty\\_Contract.pdf](#)

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DEQ Enforcement Authority:

Stat. Auth.: ORS 459.995, 466, 467, 468.020, 468.996, 468A & 468B

OAR 340-012-0060

Note: A new county contract has been written ( in order to standardize contracts across all counties) and the intention is to have the new contracts signed this year. The counties' enforcement authority is retained in the new contract. Randy may have a copy of the new language if you are interested in seeing a copy.

Priscilla

**Priscilla Woolverton | TMDL Basin Specialist**

Western Region | 165 E. 7th Ave., Ste. 100, Eugene, OR 97401-3049

[woolverton.priscilla@deg.state.or.us](mailto:woolverton.priscilla@deg.state.or.us) | 541.687.7347

MEMORANDUM OF AGREEMENT

BETWEEN

THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE

COUNTY OF LANE

Pursuant to authority granted by Oregon Revised Statutes 454.725, this Memorandum of Agreement is made and entered into as of the 8<sup>TH</sup> day of JUNE, 1981, by and between the Department of Environmental Quality of the State of Oregon, acting by and through its Director, hereinafter called the "Department", and the County of Lane, acting by and through its Dept. of Environmental Management, hereinafter called the "County". This Memorandum of Agreement supercedes one entered into by the same parties on February 23, 19 76.

WITNESSETH:

WHEREAS, the Department and the County are mutually desirous of maintaining a high quality environment and of cooperating with each other for that purpose; and

WHEREAS, the laws of the State of Oregon specify that any person may request an evaluation report on any proposed on-site (subsurface or alternative) sewage disposal system for a single lot, partitioning or subdivision, or on any proposed repair, alteration or extension to an existing on-site sewage disposal system or part thereof; and

WHEREAS, the laws of the State of Oregon specify that no person, without first obtaining a permit therefor, shall construct an on-site sewage disposal system or part thereof, or without first obtaining a Certificate of Satisfactory Completion, shall operate or use an on-site sewage disposal system or part thereof; and

WHEREAS, in order to provide service to applicants as close to home as possible and utilize effectively and efficiently the resources of the Department and County:

NOW THEREFORE, the Department and County agree as follows:

1. The County shall maintain adequate personnel and resources to, and shall, receive and process applications for evaluation reports and permits for all on-site sewage disposal systems proposed for construction, alteration, repair, or connection within the County in accordance with the provisions of ORS 454.605 through ORS 454.780, and OAR 340-71-100 to 71-600, as now or hereafter amended, utilizing procedures approved by the Department. The Department shall maintain adequate personnel and resources to carry out its commitments under this contract. The Department shall supply the County with copies of each revision of the rules and all administrative forms required by the Department, copies of internal management directives, procedural memoranda and recommended administrative forms. The County may print additional copies or order them from the Department at cost.
2. Designated County personnel shall serve as the Agent of the Department, except where the involvement of Department staff is expressly specified in Environmental Quality Commission (hereinafter called "EQC") rules or this Agreement. The Department shall upon request provide interpretive assistance to the County. Any unresolved differences of interpretation of EQC rules or this Agreement between the County and the Department shall be transmitted to the Director of the Department whose decision shall be final.

3. The Department shall issue evaluation reports and permits for experimental systems. The County shall assist applicants for experimental systems and shall assist the Department upon request in evaluation of experimental systems applications. As negotiated outside the scope of this agreement, the County shall assist the Department in monitoring experimental systems.
4. The County shall adopt fee schedules in accordance with ORS 454.745, not to exceed costs for efficiently conducted minimum services. All fees for services provided by the County for on-site systems shall be collected by and shall remain with the County to defray program expenses. All fees for services provided by the Department shall be collected and retained by the Department, to defray program expenses.

In the event the legislature, in the Department's budget process, approves a surcharge for certain on-site systems activities, the County shall collect that surcharge in accordance with the Department's fee surcharge schedule and forward to the Department quarterly.

5. The County shall collect from applicants the required fees pursuant to the County's fee schedule. The County shall keep a complete and accurate record of activities performed and of the fees collected, and quarterly, by the 15th of the succeeding month shall forward to the Department a copy of the record on forms provided by the Department.

6. If the County becomes unable to perform the responsibilities set forth in this Memorandum of Agreement, and the Department assumes all or a portion of these responsibilities, all or an appropriate proportion, as determined between the County and the Department, of the fees collected shall be forwarded to the Department quarterly.
7. Following the receipt of a completed evaluation report application and specified fee, the County shall conduct a site evaluation and issue a report, pursuant to ORS 454-655(6) and 454.755(1)(b) and (3) and OAR 340-71-150, as now or hereafter amended.
8. Following the receipt of a completed application for a permit, the County shall determine if the proposed construction will be in accordance with the rules of the EQC. The County shall issue a permit only if it finds that the proposed construction will be in accordance with the rules of the EQC.
9. The County, following receipt of notification from a permit holder that construction has commenced, shall inspect it in accordance with rules of the EQC.
10. The County shall accept and process applications for evaluations reports on the adequacy of sewage disposal methods for proposed and existing subdivisions within its jurisdiction, and shall prepare such evaluation reports pursuant to ORS 454.755(1)(c) and 92.090(5)(c). The reports shall be made on forms provided by the Department.

11. The County shall evaluate and prepare a report on existing on-site sewage disposal systems in response to appropriate applications for Authorization Notices, pursuant to OAR 340-71-205, as now or hereafter amended.
12. The County shall cooperate with and assist the Department in enforcing compliance with the provisions of ORS 454.605 through ORS 454.755. The County shall require that within the County, no person shall construct, alter, repair, extend or connect an on-site sewage disposal system without first obtaining a permit from the County and no person shall operate a new, altered, repaired, extended or reconnected on-site sewage disposal system without first obtaining a Certificate of Satisfactory Completion or an Authorization Notice, as appropriate, except that existing systems for which a permit is issued to repair, alter or extend may be allowed to operate pending receipt of the Certificate. Whenever a complaint is received or there are reasonable grounds for believing that any on-site sewage disposal system or part thereof is being constructed, operated or maintained in violation of any EQC rule, the County shall make an inspection. The County shall notify each violator verbally and/or in writing of the violation and shall use its best efforts to persuade the violator to make corrections. After the above actions have been exhausted by the County and if the violator has not complied, the County shall transmit the entire file and evidence of the violation to the appropriate regional office of the Department. After acceptance of the referral the Department shall conduct an on-site investigation as deemed necessary by the Department and provide appropriate written notification within 30 days. The County shall cooperate in assisting the Department in reinforcing the local effort with formal and legal enforcement action

by making all inspections, reports, hand delivery of notices and other actions which are requested by the Department.

For clarification, the Department will accept enforcement referrals for installer violations, improper construction methods or materials, and failure of existing systems. The Department will not accept enforcement referrals for situations which also violate local land use, planning, zoning, and/or building ordinances until such violations have been resolved by the County.

In the event future legislation provides for County administration of enforcement activities, this agreement may be amended to reflect negotiated county enforcement options.

13. The County shall maintain documentation of noncompliance of persons performing Sewage Disposal Services and shall transmit said documentation to the Department.
14. The County shall inspect upon request of the Department or Licensee, pumping equipment of persons licensed, or proposed to be licensed, to perform Sewage Disposal Services under ORS 454.695, and engaged, or to be engaged, in pumping out septic tanks, other treatment facilities or nonwater-carried waste disposal facilities.
15. The County and the Department shall negotiate appropriate Rural Area zoning designations, pursuant to EOC rules for County administration of rural area variances.

If in the negotiations the County does not to the Director's satisfaction:

- a. Designate appropriate rural areas or
  - b. Have available manpower or staff meeting minimum educational and experience standards to conduct the program;
- then the Rural Areas variance program will not be an option for the County.

16. The County shall assist those making application and upon request by the Department shall review and make recommendation on applications for variances from the on-site sewage disposal rules, and shall participate in inspections and hearings as requested by the Department.

If the Department grants the variance, the County shall issue the permit and shall conduct the construction completion inspection and issue the Certificate of Satisfactory Completion. The Department shall reimburse the County on a quarterly basis the fee for a construction permit contained in OAR 340-71-140 per granted variance to assist the County with defraying County costs in performing the duties required by these provisions.

17. Program entry level personnel hired by the County after July 1, 1981, to perform services under this contract shall meet the minimum educational qualifications for the State of Oregon, Personnel Division classification "Waste Management Specialist" No. C6408; except those personnel employed to do pre-cover inspections only shall meet minimum qualifications agreed to by the Department and the County.



In the event the County is unable to hire personnel with the qualifications of Waste Management Specialist, the Director may authorize hiring of someone who qualifies for registration as a Sanitarian or Sanitarian Trainee under ORS 700, if the County provides a training program to qualify that person for Waste Management Specialist.

18. The County shall notify persons whose application for a site evaluation or construction permit has been denied of the opportunity for Department review of the denial, provided the denial was not based on local land use, zoning, planning, or building ordinances.

Following receipt of a completed application for review, the Department shall conduct the review within 30 days.

19. The Department shall provide required training programs to include at least one (1) annual field workshop in each region of the state; one (1) annual program conference for all personnel in the state to give opportunity to learn from each other and hear from selected speakers; other training programs the Department determines to be necessary. All County program personnel shall attend the annual field workshop and at least one person shall attend the annual program conference.

In addition, the Department shall seek to assure independent training opportunities are available for program personnel to include geology and soils courses at Oregon State University and other institutions of higher learning. The Department encourages the County to establish a budget, to assist County employees in acquiring the above training.

20. The Department shall provide the following program support services to counties, upon request:
- a. Rule interpretation.
  - b. System Plan Review.
  - c. Technical assistance.
21. The Department shall perform County program evaluations and provide reports as follows:
- a. Periodically - annually, during the month of January the Department's Regional Office shall conduct a program evaluation and provide Lane County with a written report within 30 days. In the event significant improvements or program modifications are needed to comply with Oregon Administrative Rules, Chapter 340, Division 71 or this memorandum of agreement, the County shall provide a written response within 30 days upon notification from the Department and provide a time schedule to implement such improvements or modifications.
  - b. Formal program audit on a biennial basis.
22. The Department shall evaluate materials used in on-site systems within the State of Oregon, and provide a list of approved materials to the County.
23. Except for those activities delegated below to the County under OAR 340-71-120, as now or hereafter amended, the Department shall accept and process applications for large systems site evaluations

and construction permits for sites within the County. The following activities involving large systems are hereby delegated to the County:

- a. OAR 340-71-120 (1)(b) ; Site evaluations, permit issuance and inspections for systems of 2501 - 5000 gallons
- b. OAR 340-71-120 (1)(c) ; Periodic inspections for systems of 5001 gallons or larger

24. The Department and County shall cooperate in sanitary surveys intended to document and eliminate health hazards caused by failing on-site systems. During the annual program evaluation, problem areas shall be evaluated and ranked. If manpower allows, priority surveys shall be scheduled.

25. The Department shall license sewage disposal service applicants and provide to the County a list of licensees on an annual basis. The annual list shall be updated by addendum quarterly.

26. The Department of Environmental Management within Lane County is designated as the Agent for purposes of administering the provisions of this Agreement.

This Memorandum of Agreement may be modified only by written agreement signed by both parties or it may be terminated by either party upon 30 day written notice to the other party; provided, however, that if either party shall default in the performance of this Memorandum of Agreement, the other party may terminate it upon written notice thereof being given to the defaulting party.

DEPARTMENT OF ENVIRONMENTAL QUALITY  
State of Oregon

By William H. Young  
Director

Date 6-8-81

COUNTY OF Lane

By George E. Morgan

General Administrative Officer

Date 5/28/81

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-11-

APPROVED AS TO FORM	
DATE <u>5-27-81</u>	<u>Verifying</u>
<u>[Signature]</u>	
OFFICE OF LEGAL COUNSEL	